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SUPPLEMENT

PROCLAMATIONS, RULES AND REGULATIONS

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No. 68

THE FISHERIES ACT

THE FISHING INDUSTRY (SPINY LOBSTER) (AMENDMENT) REGULATIONS, 2020

WHEREAS section 111(1) of the Fisheries Act (hereinafter referred to as the "Act") repealed the Fishing Industry Act (hereinafter referred to as the "repealed Act"):

AND WHEREAS section 111(2)(a) of the Act provides that notwithstanding the repealed Act, regulations made and in force immediately before the repealed Act, shall remain in full force and effect, with such changes as may be necessary as if made under the Act may be amended or revoked accordingly:

AND WHEREAS the Act came into effect on the 1st day of June, 2019:

NOW, THEREFORE, in exercise of the power conferred upon the Minister by section 109 of the Fisheries Act, and of every other power hereunto enabling, the following Regulations are hereby made:—

1. These Regulations may be cited as the Fishing Industry (Spiny Lobster) (Amendment) Regulations, 2020, and shall be read and construed as one with the Fishing Industry (Spiny

Lobster) Regulations, 2009 (hereinafter referred to as the "principal Regulations") and all amendments thereto.

2. Regulation 2 of the principal Regulations is amended by deleting from the definition of the term "close season" the word "section 19(k)" and substituting therefor the word "section 19(1)".

3. Regulation 4 of the principal Regulations is amended by deleting the word "Minister" wherever it appears and substituting therefor, in each case, the word "Authority".

4. The principal Regulations are amended by deleting regulation 4A and substituting therefor the following—

"Application
for storage,
sale overseas,
export or
processing of
spiny lobster
during close
season.

4A.—(1) Where—

- (a) a licensed fisherman;
- (b) a middleman;
- (c) an owner or operator of a commercial cold storage establishment, hotel or an eating establishment or similar entity which offers spiny lobster meat to its patrons; or
- (d) any other person,

has possession of any spiny lobster that was lawfully fished before the commencement of the close season, and is desirous of storing, selling overseas or otherwise exporting, or processing the spiny lobster after twenty-one days of the commencement of the close season, that person shall apply to the Authority for an authorization to store, sell overseas or otherwise export or process such spiny lobster, as the case may be.

(2) An application under paragraph (1) shall be made, in writing, and shall include—

- (a) a detailed description of any spiny lobster by-product or extract that the applicant intends to store, sell overseas or otherwise export or process, specifying the information required of regulation 4(3);
- (b) a declaration by the applicant stating—
 - (i) whether the spiny lobster, that is the subject of the application, will be stored, sold overseas or otherwise exported or processed;
 - (ii) how much of the spiny lobster, if any, will remain in the possession of the applicant after such amount of the spiny lobster is stored, sold overseas or exported or processed, pursuant to paragraph (1);

- (c) where the application is for the storage of spiny lobster, the name and address of the approved storage facility where the applicant intends to store the spiny lobster for the duration of the close season; and
- (d) where the applicant intends to sell the spiny lobster overseas or otherwise export the spiny lobster, a certified copy of a valid licence to export or enter for export, an aquaculture, inland or marine product or its by-product, granted under the Aquaculture, Inland and Marine Products and By-Products (Inspection, and Licensing) Act.

(3) An application under paragraph (1) shall be submitted to the Authority for consideration no later than the 15th day of April, 2020.

(4) The Authority may authorize the storage of the spiny lobster for the duration of the close season where the Authority is satisfied that—

- (a) the applicant intends to sell overseas, or otherwise export the spiny lobster, and the applicant is the holder of a valid licence to export or enter for export aquaculture, inland or marine product or its by-product, granted under the Aquaculture, Inland and Marine Products and By-Products (Inspection and Licensing) Act; and
- (b) the information supplied by the applicant is consistent with the findings of any inspections by a fishery inspector.

(5) Where the Authority grants an authorization under this regulation, the Authority shall issue to the person, the authorization, in writing, subject to such terms and conditions, if any, which shall—

- (a) describe the state and the quantity of the spiny lobster that has been authorized for storage, sale overseas or export otherwise than for sale, as the case may be, or processing;
- (b) identify the approved storage facility, where the applicant intends to store the spiny lobster;
- (c) state the period of time during which the spiny lobster is to be stored, where the applicant intends to store the spiny lobster;
- (d) any other matter, as the Authority may determine.

(6) Where an applicant under this regulation, who has been granted an authorization to store spiny lobster, has been informed that an approved storage facility named in the authorization for storage of spiny lobster, is unable or unwilling to store the spiny lobster, the person

who made the application shall advise the Authority, in writing, of any change in arrangements for storage, at least twenty-four hours before the date of the intended delivery of the spiny lobster to another approved storage facility.

(7) In this regulation "certified copy" means a copy certified, on presentation of the original document, by a Justice of the Peace or a public officer appointed for the purpose by the Authority."

5. Regulation 5 of the principal Regulations is amended by—

- (a) deleting the words "Fishery Inspector" wherever they appear and substituting therefor, in each case, the words "fishery inspector";
- (b) deleting the word "Minister" wherever it appears and substituting therefor, in each case, the word "Authority"; and
- (c) deleting paragraph (4) and substituting therefor the following—

" (4) The fishery inspector's approval shall be provided to the relevant approved storage facility and the—

- (a) licensed fisherman;
- (b) middleman;
- (c) owner or operator of a commercial cold storage establishment, hotel or eating establishment, hotel or eating establishment or similar entity which offers spiny lobster meat to its patrons; or
- (d) any other person,

whose spiny lobster has been authorized for storage during the close season."

6. Regulation 6 of the principal Regulations is amended by deleting the words "Fishery Inspector" wherever they appear and substituting therefor, in each case, the words "fishery inspector".

7. Regulation 7 of the principal Regulations is amended—

- (a) in paragraph (2) by deleting the word "Minister" and substituting therefor the word "Authority"; and
- (b) in paragraph (3) by deleting the words "Fishery Inspector" and substituting therefor the words "fishery inspector".

8. Regulation 7A of the principal Regulations is amended—

- (a) by deleting the word "Minister" wherever it appears and substituting therefor, in each case, the word "Authority"; and
- (b) by deleting the words "Fishery Inspector" wherever they appear and substituting therefor, in each case, the words "fishery inspector".

9. Regulation 7B of the principal Regulations is amended—

- (a) by deleting the word “Minister” and substituting therefor, in each case, the word “Authority”; and
- (b) in paragraph (3) by deleting the words “Fishery Inspector” and substituting therefor the words “fishery inspector”.

10. Regulation 7C of the principal Regulations is amended—

- (a) by deleting subparagraph (a) of paragraph (3) and substituting therefor the following—

“(a) a fishery inspector;”;

- (b) in subparagraph (b)(ii) of paragraph (3) by deleting the fullstop and substituting therefor a semicolon;

- (c) by inserting next after subparagraph (b) of paragraph (3), as amended, the following—

“(c) a person specified in paragraph (1) of regulation 4, on the authorization of the Authority under regulation 4A.”;

- (d) in subparagraph (a) of paragraph (4) by deleting the word “Minister” and substituting therefor the word “Authority”; and

- (e) by deleting subparagraph (b) of paragraph (4) and substituting therefor the following—

“(b) give a report, in writing, to the Authority and, on request

- (i) the licensed fisherman;
- (ii) the middleman;
- (iii) the owner or operator of a commercial cold storage establishment, hotel or eating establishment or similar entity which offers spiny lobster meat to its patrons; or
- (iv) any other person,

to whom authorization for storage was given, whose spiny lobster has been accessed or handled while in storage.”.

Dated this 14th day of April, 2020.

AUDLEY SHAW
Minister of Agriculture and Fisheries.

